

## PUBLIC HEALTH DEPARTMENT[641]

### Notice of Intended Action

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code section 135.11, the Department of Public Health hereby gives Notice of Intended Action to rescind Chapter 193, “Impaired Practitioner Review Committee,” Iowa Administrative Code, and to adopt a new chapter with the same title.

This proposed new chapter makes the following changes to the language in the rescinded chapter: amends the definitions of “committee” and “practitioner” and adds clarifying language. The proposed chapter also places the language into more than one rule.

Any interested person may make written comments or suggestions on the proposed rules on or before April 13, 2010. Such written comments should be directed to Barb Nervig, Department of Public Health, Lucas State Office Building, 321 E. 12th Street, Des Moines, Iowa 50319. E-mail may be sent to [bnervig@idph.state.ia.us](mailto:bnervig@idph.state.ia.us).

These rules are intended to implement Iowa Code chapter 272C.

The following amendment is proposed.

Rescind 641—Chapter 193 and adopt the following new chapter in lieu thereof:

### CHAPTER 193

### IMPAIRED PRACTITIONER REVIEW COMMITTEE

**641—193.1(272C) Definitions.** For the purpose of these rules, the following definitions shall apply:

“*Committee*” means the impaired practitioner review committee as established by a licensing board pursuant to the authority of Iowa Code section 272C.3(1) “k.”

“*Contract*” means the written document establishing the terms for participation in the impaired practitioner program prepared by the committee.

“*Impairment*” means an inability to practice with reasonable safety and skill as a result of alcohol or drug abuse, dependency, or addiction or any mental or physical disorder or disability.

“*Licensing board*” or “*board*” means “licensing board” or “board” as defined in Iowa Code section 272C.1.

“*Practitioner*” means a person licensed under Iowa Code chapter 105, 147, 147A, 148C, 149, 152B, 152C, 152D, 154A, 154E, or 155.

“*Self-report*” means the licensee’s providing written or oral notification to the board that the licensee has been or may be diagnosed as having an impairment prior to the board’s receiving a complaint or report alleging the same from a second party.

**641—193.2(272C) Purpose.** The impaired practitioner review committee evaluates, assists, monitors and, as necessary, makes reports to the licensing board on the recovery or rehabilitation of practitioners who self-report impairments. These rules do not apply to an impaired practitioner review committee governed by other administrative rule or statute.

**641—193.3(272C) Composition of the committee.** The chairperson of the board shall appoint the members of the committee. The committee shall meet as necessary in order to review licensee compliance, develop consent agreements for new referrals, and determine eligibility for continued monitoring. The membership of the committee includes, but is not limited to:

**193.3(1)** One practitioner, licensed under the same board or similar professional licensing board who has remained free of addiction for a period of no less than two years since successfully completing a board-approved recovery program and board-ordered probation for drug or alcohol dependency, addiction, or abuse.

**193.3(2)** One practitioner with expertise in substance abuse/addiction treatment programs.

**193.3(3)** One public member of the board.

**641—193.4(272C) Eligibility.** To be eligible for participation in the impaired practitioner recovery program, a licensee must meet all of the following criteria:

**193.4(1)** The licensee must self-report an impairment or suspected impairment directly to the office of the board.

**193.4(2)** The licensee must not have engaged in the unlawful diversion or distribution of controlled substances or illegal substances.

**193.4(3)** At the time of the self-report, the licensee must not already be under board order for an impairment or any other violation of the laws and rules governing the practice of the profession.

**193.4(4)** The licensee has not caused harm or injury to a client.

**193.4(5)** There is currently no board investigation of the licensee that, as determined by the committee, concerns serious matters related to the ability to practice with reasonable safety and skill or in accordance with the accepted standards of care.

**193.4(6)** The licensee has not been subject to a civil or criminal sanction or ordered to make reparations or remuneration by a government or regulatory authority of the United States, this or any other state or territory or a foreign nation for actions that the committee determines to be serious infractions of the laws, administrative rules, or professional ethics related to the practice of the licensee's profession.

**193.4(7)** The licensee has provided truthful information and fully cooperated with the board or committee.

**641—193.5(272C) Terms of participation in the impaired practitioner recovery program.** A licensee shall agree to comply with the terms for participation in the impaired practitioner recovery program established in a contract. Conditions placed upon the licensee and the duration of the monitoring period shall be established by the committee and communicated to the licensee in writing.

**193.5(1) Noncompliance.** Failure to comply with the provisions of the contract shall require the committee to make immediate referral of the matter to the board for possible disciplinary action.

**193.5(2) Practice restrictions.** The committee may impose restrictions on the licensee's practice as a term of the contract until such time as the committee receives a report from an approved evaluator that the licensee is capable of practicing with reasonable safety and skill.

*a.* As a condition of participating in the program, a licensee is required to agree to restricted practice in accordance with the terms specified in the contract.

*b.* In the event that the licensee refuses to agree to or comply with the restrictions established in the contract, the committee shall refer the licensee to the board for appropriate action.

**641—193.6(272C) Limitations.** The committee establishes the terms and monitors a participant's compliance with the program specified in the contract.

**193.6(1)** The committee is not responsible for participants who fail to comply with the terms of or successfully complete the impaired practitioner program.

**193.6(2)** Participation in the program under the auspices of the committee shall not relieve the board of any duties and shall not divest the board of any authority or jurisdiction otherwise provided. Any violation of the statutes or rules governing the practice of the licensee's profession by a participant shall be referred to the board for appropriate action.

**641—193.7(272C) Confidentiality.** The committee is subject to the provisions governing confidentiality established in Iowa Code section 272C.6.

**193.7(1)** Information in the possession of the board or the committee about licensees in the program shall not be disclosed to the public.

**193.7(2)** Participation in the impaired practitioner program under the auspices of the committee is not a matter of public record.

These rules are intended to implement Iowa Code chapter 272C.